



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PP03-03-092. Public project to allow the completion of the Guadalupe River Trail Reach 12, Phase 1 which is a 3,100 foot long trail that will connect the downtown section of the Guadalupe River Trail with the southernmost section of the trail. (Santa Clara Valley Water District, Owner, City of San Jose, Developer). Council District: 9

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **April 28, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **March 28, 2003** and ends on **April 28, 2003**.

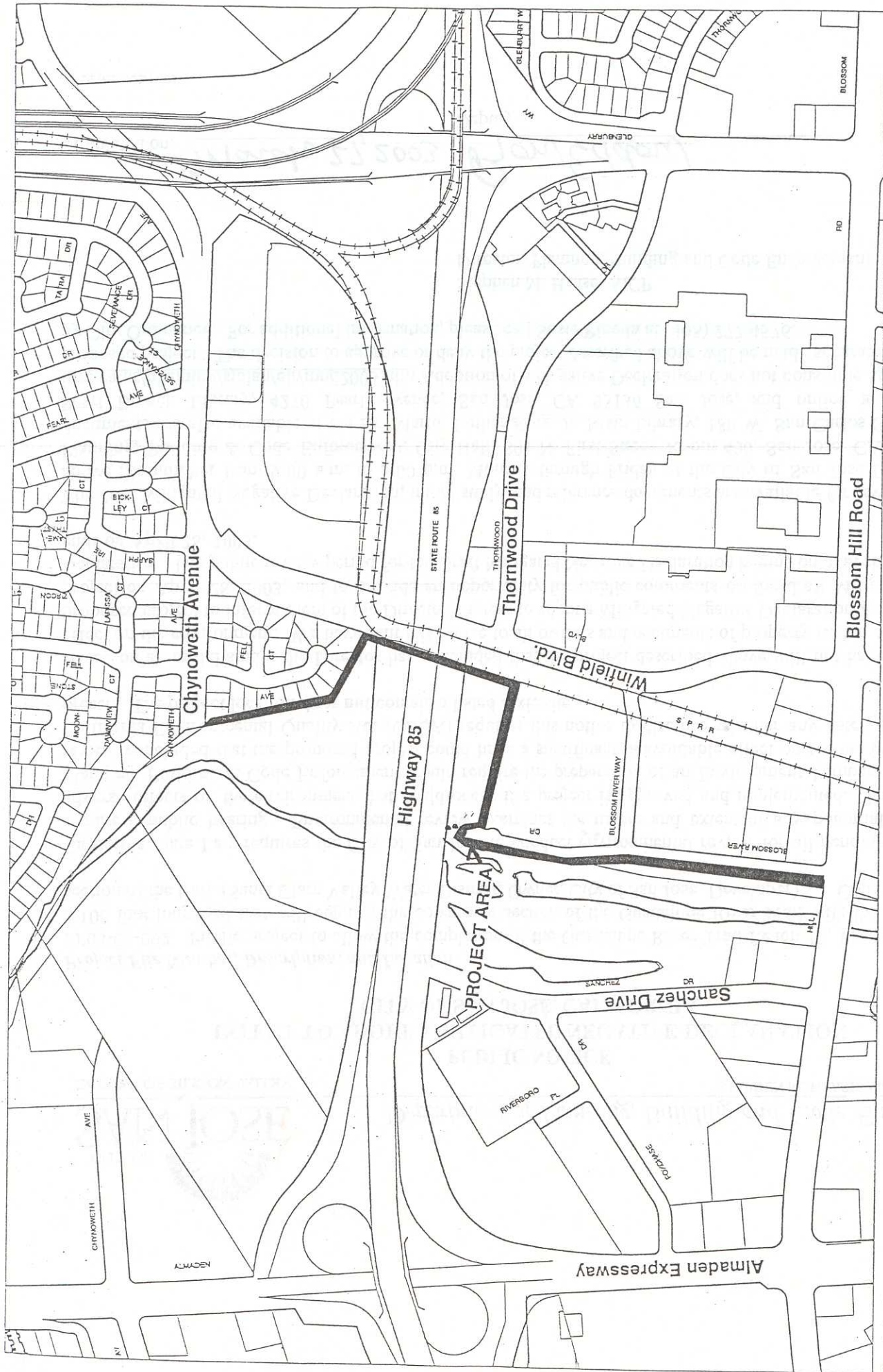
The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Pearl Branch Library, 4270 Pearl Avenue, San José, CA 95136 San Jose, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Susie Pineda** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: March 27, 2003

Deputy

MNDPN/SBA/2/11/03



Scale: 1" = 540'

Date: 03/21/2003



Guadalupe River Reach 12, Phase I Trail Project

PP03-03-092

District: 9

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Guadalupe River Reach 12, Phase 1 Trail Project

PROJECT FILE NUMBER: PP03-03-092

PROJECT DESCRIPTION: The completion of Reach 12, Phase 1 which is a 3,100 foot long trail that will connect the downtown section of the Guadalupe River Trail with the southernmost section of the trail.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The trail begins on the east side of the Guadalupe River at Blossom Hill Road, connecting to the existing Reach 13 of the Guadalupe River trail south of the project, and would continue north to the Santa Clara Valley Water District percolation pond. At the percolation pond, the trail will turn east and follow the perimeter of the percolation pond. The trail will end at Chynoweth Avenue just before the northernmost point of the percolation pond. (A.P.N.: 458-14-005, -029, -031, -032)

COUNCIL DISTRICT: 9

NAME OF APPLICANT: City of San Jose Department of Public Works

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Jan Palajac, Department of Public Works, Parks and Recreation Facilities Division, 2 North Second Street, Suite 700, San Jose, CA 95113; Phone # (408) 794-1376

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. **AIR QUALITY.** The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a less-than-significant level. The following mitigation would be implemented during all phases of construction on the project site:
 - Water all active construction areas at least twice daily or as often as needed to control dust
 - Cover all trucks hauling soil, gravel and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

- Pave, apply water twice daily or as often as necessary to control dust, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas and staging areas at construction areas.
- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- Limit vehicle traffic speeds on unpaved roads to 15 mph.
- Replant vegetation in disturbed areas as quickly as possible.

2. **BIOLOGICAL RESOURCES.** Construction activities associated with implementation of the proposed project could significantly impact Steelhead and Chinook Salmon due to degradation of water quality within the Guadalupe River. Implementation of Best Management Practices, recommended by the CDFG, will reduce this potential impact to a less-than-significant level. The following mitigation measures apply whether or not grading occurs within the Guadalupe Riverbed itself:

- All active paved construction areas will be swept and washed daily. The water used for washing the paved areas will not be allowed to drain directly to the river.
- An impermeable barrier shall be installed to retain sediment within the boundaries of construction and prevent sediment from washing into the adjacent wetlands and aquatic channel.
- During construction, temporary cover will be provided to all erodable disturbed surfaces to help control erosion.
- Once construction is complete, all disturbed surfaces that are exposed to precipitation and have the potential for runoff will either be permanently covered or revegetated.
- Construction work within or immediately adjacent to the channel will be restricted to the dry season as coordinated with regulatory agencies when there is minimal water in the channel and when the use of the channel by steelhead and Chinook salmon is expected to be negligible. Because Chinook salmon rarely appear in the south San Francisco Bay streams until late September or October, and spawning adult steelhead are not expected until even later in fall or early winter, restricting construction within the channel to the dry season will either avoid or minimize impacts to spawning salmonids.
- During construction, no equipment will be operated in the live stream channel.
- When work in a flowing stream is unavoidable, any stream flow shall be diverted around the work area by a barrier, temporary culvert or a new channel capable of permitting upstream and downstream fish movement. The temporary construction of a diversion structure within a water of the U.S. (jurisdictional water) will require a permit from the USACE.
- Construction of the barrier or the new channel shall normally begin in the downstream area and continue in an upstream direction and the flow shall be diverted only when construction of the diversion is completed.
- No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State.

Construction activities associated with implementation of the proposed project could significantly impact migratory bird species in the project area. The following mitigation measures will be incorporated into the proposed project:

- Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including raptors and shrikes, in the south San Francisco Bay area extends from January through August.
- If it is not possible to schedule demolition and construction between August and January, then preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential habitats (e.g. grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that no nests of species protected by the MBTA or State Code will be disturbed during project implementation.
- If vegetation is to be removed by the project and all necessary approvals have been obtained, potential nesting substrate (e.g. bushes trees, grass, burrows) that will be removed by the project shall be removed before nesting season (February) to help preclude nesting. Pre-removal surveys are required for some species. Removal of vegetation or structures slated for removal by the project shall be completed outside of the nesting season, which extends from February through September.

3. CULTURAL RESOURCES. The improvements proposed for the site will require grading activities that could disturb unknown cultural resources. The following mitigation will be incorporated into the proposed project:

- In compliance with state law, in the event human remains are encountered during earthmoving activities, all work within 25 feet of the find will stop and the Santa Clara County Coroner's Office will be notified. If the remains are determined to be Native American, the Coroner would notify the Native American Heritage Commission to identify the "Most Likely Descendant" (MLD). The City, in consultation with the MLD, would then prepare a plan for treatment, study and reinterment of the remains. All significant artifacts and samples recovered during construction would be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility.
- In the event that prehistoric or historic resources are encountered during earthmoving activities, all work within 25 feet of the find will stop, the Director of Planning, Building, and Code Enforcement would be notified, and a qualified archaeologist will examine the find and make appropriate recommendations for collection, recordation and analysis of the find.

4. GEOLOGY AND SOILS. Grading activities would increase the potential for sedimentation and erosion along the river bank, particularly in areas where vegetation is removed. The following measures have been included to reduce potential construction related erosion impacts:

- All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized to withstand or avoid erosion.
- Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.

- Existing vegetation will be removed only when it is absolutely necessary.
- Vegetation in disturbed areas will be replanted as quickly as possible.
- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

5. **HAZARDS AND HAZARDOUS MATERIALS.** Grading activities will require the removal, hauling and disposal of soil that may be contaminated. The following measures have been included to reduce potential hazardous materials impacts:

- Soil to be removed will be randomly sampled to determine if mercury levels are high enough to qualify the soil as a hazardous material based on California Code of Regulations, Title 22 thresholds for contaminants.
- If the soil is not considered a hazardous material no further action is required. If the soil is considered a hazardous material, the following measures will be incorporated into the project:
 - All soil will be transported in accordance with the City of San Jose Municipal Code (11.90.050) and Title 13, Division 2, Chapter 6 of the California Code of Regulations.
 - Obtain permission from an appropriately licensed disposal facility to dispose of contaminated soils.
 - Inform the contractor of the presence of potentially hazardous materials within the project area so that proper health and safety measures can be provided to the construction workers.

6. **HYDROLOGY AND WATER QUALITY.** Construction activities will result in increased erosion and sedimentation which will cause the degradation of water quality within the Guadalupe River and the percolation pond. The following mitigation measures have been included in the project to reduce potential construction-related water quality impacts:

- The project will comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation, and with the City of San Jose zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction. The following specific measures will be implemented to prevent storm water pollution and minimize potential sedimentation during construction.
 - All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized to withstand or avoid erosion.
 - Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
 - Existing vegetation will be removed only when it is absolutely necessary.
 - Vegetation in disturbed areas will be replanted as quickly as possible.
 - Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

7. **NOISE.** Noise generating activities associated with grading of the project site would temporarily elevate noise level in the area surrounding the project site. The following measures have been included to reduce potential construction related noise impacts:

- Construction activities would be limited to the period between 7:00 a.m. and 7:00 p.m. Monday through Friday.

- The contractor would be required to use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site would be equipped with adequate mufflers and would be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- The developer would implement a Construction Management Plan approved by the City to minimize impacts on the surrounding sensitive land uses, particularly residences, to the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:
 - Early and frequent notification and communication with the neighborhood and other land uses of the construction activities, including the onset, expected consequences, and actual consequences of various construction activities, as well as a commitment to, whenever possible, reduce problems that occur.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **April 28, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: March 27, 2003

Deputy

Adopted on: _____

Deputy